

INDIAN AFFAIRS: LAWS AND TREATIES

Vol. II, Treaties

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AGREEMENT WITH THE CHEROKEE AND OTHER TRIBES IN THE INDIAN TERRITORY, 1865.

Sept. 13, 1865. | Unratified.

See note, post 1051, ante p. 910, 931.

For the proceedings relative to the negotiation of this agreement, see Ann. Rep. Commr. Ind. Aff., 1865, pp. 34, 312-353.

Also House Ex. Doc. No. 1, 1st sess. 39th Cong., vol. 2, 1865-66, pp. 480 to 542.

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Articles of agreement entered into this thirteenth day of September, 1865, between the commissioners designated by the President of the United States and the persons here present representing or connected with the following named nations and tribes of Indians located within the Indian country, viz: Cherokees, Creeks, Choctaws, Chickasaws, Osages, Seminoles, Senecas, Senecas and Shawnees, and Quapaws.

Whereas the aforesaid nations and tribes, or bands of Indians, or portions thereof, were induced by the machinations of the emissaries of the so-called Confederate States to throw off their allegiance to the government of the United States, and to enter into treaty stipulations with said so-called Confederate States, whereby they have made themselves liable to a forfeiture of all rights of every kind, character, and description which had been promised and guaranteed to them by the United States; and whereas the government of the United States has maintained its supremacy and authority within its limits; and whereas it is the desire of the government to act with magnanimity with all parties deserving its clemency, and to re-establish order and legitimate authority among the Indian tribes; and whereas the undersigned representatives or parties connected with said nations or tribes of Indians have become satisfied that it is for the general good of the people to reunite with and be restored to the relations which formerly existed between them and the United States, and as indicative of our personal feelings in the premises, and of our several nations and tribes, so far as we are authorized and empowered to speak for them; and whereas questions have arisen as to the status of the nations, tribes, and bands that have made treaties with the enemies of the United States, which are now being discussed, and our relations settled by treaty with the United States commissioners now at Fort Smith for that purpose:

The undersigned do hereby acknowledge themselves to be under the protection of the United States of America, and covenant and agree, that hereafter they will in all things recognize the government of the United States as exercising exclusive jurisdiction over them, and will not enter into any allegiance or conventional arrangement with any state, nation, power or sovereign whatsoever; that any treaty of alliance for cession of land, or any act heretofore done by them, or any of their people, by which they renounce their allegiance to the United States, is hereby revoked, cancelled, and repudiated.

In consideration of the foregoing stipulations, made by the members of the respective nations and tribes of Indians present, the United States, through its commissioners, promises that it will re-establish peace and friendship with all the nations and tribes of Indians within the limits of the so-called Indian country; that it will afford ample protection for the security of the persons and property of the respective

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nations or tribes, and declares its willingness to enter into treaties to arrange and settle all questions relating to and growing out of former treaties with said nations, as affected by any treaty made by said nations with the so-called Confederate States, at this council now convened for that purpose, or at such time in the future as may be appointed.*

In testimony whereof, the said commissioners on the part of the United States, and the said Indians of the several nations and tribes, as respectively hereafter enumerated, have hereunto subscribed their names, and affixed their seals, on the day and year first above written.

(Note.—This treaty is presumed to have been signed, as indicated by the report of the proceedings at Fort Smith, by the commissioners of the United States and the delegations of Indians represented in the Council. Their names follow:)

<i>Hon. D. N. Cooley, president,</i>	<i>Cap-tah-ka-na.</i>	<i>Ah-yes-takie, Thomas Pegg.</i>
<i>Hon. Elijah Sells,</i>	<i>Passa.</i>	<i>Oo-nee-na-kah-ah-nah-ee, White</i>
<i>Thomas Wistar,</i>	<i>Sa-to-wee.</i>	<i>Catcher.</i>
<i>Brig. Gen. W. S. Harney, U. S.</i>	<i>Co-lo-ma-ha-jo.</i>	<i>Cha-loo-kie, Fox Flute.</i>
<i>Army,</i>	<i>Tul-me-mek-ko.</i>	<i>Da-wee-oo-sal-chut-tee, David</i>
<i>Col. Ely S. Parker,</i>	<i>Me-lo-tah-mo-ne, "Twelve o'clock."</i>	<i>Rowe.</i>
<i>Commissioners.</i>	<i>Ko-she-ce-gla.</i>	<i>Ah-tah-lah-ka-no-skee-skee, Nathan</i>
<i>Charles E. Mix,</i>	<i>Ge-ne-o-ne-gla, (brave,) "Catch</i>	<i>Fish.</i>
<i>George L. Cook,</i>	<i>Alive."</i>	<i>Koo-nah-vah, W. B. Downing.</i>
<i>W. R. Irwin,</i>	<i>Mah-ha-ah-ba-so, (brave,) "Sky-</i>	<i>Ta-la-la.</i>
<i>John B. Garrett,</i>	<i>reaching man."</i>	<i>Oo-too-lah, ta-neh, Charles</i>
<i>Secretaries.</i>	<i>Shar-ba-no-sha, (brave,) "Done</i>	<i>Conrad.</i>
<i>Creeks:</i>	<i>brown."</i>	<i>Oo-la-what-tee, Samuel Smith.</i>
<i>Ock-tar-sars-ha-jo, head chief.</i>	<i>Interpreters:</i>	<i>Tah-skee-kee-tee-hee, Jesse</i>
<i>Mik-ko-hut-kee, little white chief.</i>	<i>Alexander Bayette.</i>	<i>Baldridge.</i>
<i>Cow-we-ta-milk-ko.</i>	<i>Augustus Captain.</i>	<i>Suu-kee, Mink Downing.</i>
<i>Cah-cho-she.</i>	<i>Cowskin Senecas:</i>	<i>Chee-chee.</i>
<i>Thlo-cos-ya-lo.</i>	<i>Isaac Warrior, chief.</i>	<i>Tee-coo-le-to-ske, H. D. Reese.</i>
<i>Loch-er-ha-jo.</i>	<i>Senecas and Shawnees:</i>	<i>Colonel Lewis Downing, acting and</i>
<i>Co-me-ha-jo.</i>	<i>Lewis Davis, chief.</i>	<i>assistant principal chief.</i>
<i>Tul-wah-mik-ko-che.</i>	<i>A. McDonald.</i>	<i>Seminoles:</i>
<i>Tul-wah-mik-ko.</i>	<i>Goodhunt.</i>	<i>John Shup-co.</i>
<i>David Grayson.</i>	<i>Jas. Tallchief.</i>	<i>Pascofa.</i>
<i>David Field.</i>	<i>Lewis Denny.</i>	<i>Fo-hut-she.</i>
<i>Tuka-basha-ha-jo.</i>	<i>Interpreter, Lewis Davis.</i>	<i>Fos-har-go.</i>
<i>Captain Johnneh.</i>	<i>Cherokees:</i>	<i>Chut-cote-har-go.</i>
	<i>Kah-sah-nie, Smith Christie.</i>	<i>Interpreters: Robert Johnson, Cesar</i>
		<i>Bruner.</i>

*This document is claimed by the Indian Office not to be a treaty, but simply an agreement which formed the bases for the treaty with the Seminole of May 21, 1866, (ante p. 910) and of the treaty with the Creeks of June 14, 1866, (ante p. 931). It is not on file in the Indian Office and is found only in the Report of the Commissioner of Indian Affairs for 1865.

In the Seminole and Creek treaties mention is made of the treaty of peace and amity at Fort Smith September 10, 1865. This date is evidently erroneous, as no treaty was made at Fort Smith on that date. The agreement of September 13, 1865, must have been the one referred to. As to the signatories of the agreement the Commissioner of Indian Affairs, in his annual report for 1865, page 35, says:

"All of the delegates representing the following tribes and sections of tribes, in the order given, had signed treaties, (some of them holding out for several days until they could agree among themselves:) Senecas, Senecas and Shawnees, Quapaws, loyal Seminoles, loyal Chickasaws, loyal Creeks, Kansas,

Shawnees (uncalled for, but asking to be permitted again to testify their allegiance,) loyal Osages, tribes of the Wichita agency, loyal Cherokees, disloyal Seminoles, disloyal Creeks, disloyal Cherokees, disloyal Osages, Comanches, disloyal Choctaws, and Chickasaws. "Friendly relations were established between the members of the various tribes hitherto at variance, except in the case of the Cherokees. The ancient feuds among this people are remembered still."

For the full proceedings at Fort Smith see Annual Report of the Commissioner of Indian Affairs for 1865, pp. 312-353.

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<i>Jacob Conal.</i>	<i>Charles Blue Jacket, first chief.</i>	<i>—Jackson.</i>
<i>David Berryhill.</i>	<i>Graham Rogers, second chief.</i>	<i>Jim Doctor.</i>
<i>Sanford Berryman.</i>	<i>Moses Silverheels.</i>	<i>Simpson Killcrease.</i>
<i>Co-nip Fix-i-co, and others.</i>	<i>Solomon Madden.</i>	<i>A. B. Johnson.</i>
<i>Wm. F. Brown, clerk.</i>	<i>Eli Blackhoof.</i>	<i>—Corman.</i>
<i>Harry Island, interpreter for Creeks.</i>	<i>Interpreter, Matthew King.</i>	<i>George Jhonson.</i>
<i>John Marshal, interpreter for Eucheas.</i>	<i>Wyandotts:</i>	<i>—Wolburn.</i>
<i>Delegates for the black population living among the Creeks and Eucheas:</i>	<i>Silas Armstrong, first chief.</i>	<i>Choctaws:</i>
<i>Ketch Barnett.</i>	<i>Matthew Mud-eater, second chief.</i>	<i>William S. Patton.</i>
<i>John McIntosh.</i>	<i>Quapaws:</i>	<i>Robert B. Patton.</i>
<i>Scipio Barnett.</i>	<i>George Wa-te-sha.</i>	<i>A. J. Stanton.</i>
<i>Jack Brown.</i>	<i>Ca-ha-she-ka.</i>	<i>Jeremiah Ward.</i>
<i>Cow Tom.</i>	<i>Wa-she-hon-ca.</i>	<i>Indian agents:</i>
<i>Osages:</i>	<i>S. G. Valier, interpreter.</i>	<i>Major G. C. Snow, for Osages.</i>
<i>White Hair, principal chief.</i>	<i>Chickasaws:</i>	<i>George A. Reynolds, for Seminoles.</i>
<i>Po-ne-no-pah-she, second chief Big Hill band.</i>	<i>Et Tor Lutkee,</i>	<i>Isaac Coleman, for Choctaws and Chickassaws.</i>
<i>Wah-dah-ne-gah, counsellor.</i>	<i>Louis Johnson,</i>	<i>Justin Harlan, for Cherokees.</i>
<i>Shawnees:</i>	<i>Esh Ma Tubba,</i>	<i>J. W. Dunn, for Creeks.</i>
	<i>A. G. Griffith,</i>	<i>Milo Gookins, for Wichitas.</i>
	<i>Maharda Colbert, headmen.</i>	<i>J. B. Abbott, for Shawnees.</i>
	<i>Frazier McCrean.</i>	
	<i>Benjamin Colbert.</i>	
	<i>Ed Colbert.</i>	

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